

determined at the 5% significance level when grown in the same environmental conditions.

REMARKS

1. Information Disclosure Statement

Applicants acknowledge the signed copy of the IDS from the Examiner.

2. Specification

The Examiner has objected to the specification and specifies an example on page 47, for the "incorporation of essential material by reference to a foreign application or patent, or to a publication" as improper. The Examiner states that the "Applicant is required to amend the disclosure to include the material incorporated by reference".

Applicants note the objection but respectfully submit according to MPEP §608.01(p) only "essential material" from a foreign patent or application may not be incorporated. Applicants respectfully submit that the Examiner has not identified what material is "essential material" that requires incorporation into the current specification. In addition, Applicants respectfully submit that according to MPEP §2163.07(b)"[I]nstead of repeating some information contained in another document, an application may attempt to incorporate the content of another document or part thereof by reference ...[t]he information incorporated is as much a part of the application as filed as if the text was repeated in the application, and should be treated as part of the text of the application as filed". Applicants respectfully request the objection to the specification be withdrawn.

3. Claim Objections

The Examiner objects to claims 1, 5, 6, 13, 23 and 26 because of informalities. Applicant thanks Examiner for the suggested changes. The claims have been amended and Applicant respectfully requests reconsideration.

4. Claim Rejections

Rejections under 35 U.S.C. §112, Second Paragraph

The Examiner rejects claims 21, 22, 29 and 30 under 35 U.S.C. §112, Second Paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 has been amended to reflect the particular spelling of the protein as listed in the specification. Applicant respectfully submits that claim 21 is in form for allowance.

The Examiner rejects claim 22 because it is unclear if the claimed maize plant has the phenotype of modified fatty acid metabolism or modified carbohydrate metabolism. Claim 22 has been amended to include the phrase "having modified fatty acid metabolism or modified carbohydrate metabolism" Applicant asserts that the claim is now in form for allowance, and reconsideration is respectfully requested.

The Examiner rejects claim 29 because of the inconsistency in spelling stearyl-ACP desaturase synonymously spelled as stearoyl-ACP desaturase. Applicant has amended claim 29 to reflect the spelling used in the specification. The Examiner also rejects claim 29 because the "nucleic acid molecule" at line 5 cannot inhibit a polypeptide. Applicant respectfully traverses but in order to expedite prosecution has amended claim 29 and respectfully submits that the claim is now in form for allowance.

The Examiner rejects claim 30 because of the rejection supra of claim 29 upon which claim 30 depends, and because of the rejection supra of claim 22 as directed to the maize plant produced by claim 29. Claim 29 has been amended and claim 30 has been amended to include the phrase "having modified fatty acid metabolism, phytic acid metabolism or carbohydrate metabolism". Applicant respectfully asserts that claim 30 is now in form for allowance, and reconsideration is respectfully requested.

5. Requirement Under 37 C.F.R. §§ 1.801 – 1.809

The Examiner reminds the Applicant that once the deposit of seed is made, information regarding the date of deposit, description of deposited material including

number of seeds deposited, name and address of the depository, and the accession number must be added to the specification. Applicant has amended the specification, and has amended the claims to include the ATCC accession number in place of the blank "_____".


CONCLUSION

In conclusion, Applicant submits in light of the above amendments and remarks, the claims as amended are in a condition for allowance, and reconsideration is respectfully requested. If it is felt that it would aid in prosecution, the Examiner is invited to contact the undersigned at the number indicated to discuss any outstanding issues.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 16-1856.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,


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